

**Applicant:** James A. Proctor, Jr.  
**Application No.:** 09/772,176

**REMARKS/ARGUMENTS**

Claims 1, 2, 5-14, 16, 17, 19, 21, 22, 25-36, 39, and 42 are currently pending in this application. Claims 1, 16, 17, 21 and 42 are currently amended.

**Claim Rejection - 35 U.S.C. § 101**

Claim 42 stands rejected under 35 U.S.C. § 101. The Examiner cites to memo 1351 OG 212. Claim 42 has been amended in accordance with the suggestions provided in the memo, obviating the 35 U.S.C. § 101 rejection of claim 42. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 101 rejection of claim 42.

**Claim Rejection - 35 U.S.C. § 112**

Claims 1, 2, 5-14, 16, 17, 19, 21, 22, 25-36, 39 and 42 stand rejected under 35 U.S.C. § 112 as being indefinite. Specifically, the Examiner states that “[t]his amendment is vague as to what the phrase ‘as a whole’ is supposed to mean.” Applicant has amended independent claims 1, 21 and 42 to delete the allegedly vague language in order to advance prosecution of this application. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 112 rejection of independent claims 1, 21 and 42, and claims 2, 5-14, 16, 17, 19, 22, 25-36 and 39, which depend either directly or indirectly therefrom.

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**Claim Rejections - 35 U.S.C. § 103(a)**

Claims 1, 2, 11-14, 16, 17, 19, 21, 22, 31-36, 39 and 42 stand rejected under 35 U.S.C. § 103(a) as being obvious over Kong et al. (U.S. Patent No. 6,700,881) and Bucher (U.S. Patent No. 5,621,737).

Applicant's claim 1 recites "detecting a movement of a communication device..." (emphasis added). The Examiner argues that Kong discloses this feature of Applicant's claim 1, characterizing Kong as follows: "The receiver detects when the distance between the base station and the mobile station increases (column 2, lines 9-13). A reduction of the SNR and a corresponding increase in the BER detects this amount of motion of the communication device (column 2, lines 3-25)."

Column 2, lines 3-25 of Kong describe the general concept that signal-to-noise ratio (SNR) is lower when a mobile station is at a greater distance from a base station. As the Examiner points out in response to Applicant's previous arguments, this implies that "[t]he base station will be mobile (moving) during this communication." Applicant does not contend that the mobile station in Kong never moves. Instead, Applicant stresses that Kong does not disclose detecting the movement.

SNR indicates that at the point in time that the SNR was measured, if the SNR is lower than it was at a previous time that the SNR was measured, the mobile terminal may be at a distance that is farther away from the base station than it was

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at the previous point in time. This does not indicate that at the time the SNR was measured, the mobile station was moving. For example, at the time the SNR was measured, the user may have been sitting stationary in a coffee shop 1 mile from the base station, while at the previous time that the SNR was measured, the user may have been sitting stationary in his home  $\frac{1}{4}$  mile from the base station. Accordingly, SNR cannot be read as a measurement of movement.

Kong does not state or imply in any way that the mobile station is capable of determining from the SNR that the mobile station is moving, nor does Kong even recognize that motion of the mobile terminal impacts SNR. Instead, Kong only discusses the impact of distance from the base station on SNR.

In contrast to Kong, Applicant's claim 1 is concerned with "detecting a movement of a communication device..." (emphasis added). By way of example, Applicant's specification states:

In high speed wireless data communications, there are many causes for noise that reduce effective bandwidth. One such cause is rapid changes (i.e., motion) in the signaling path, where the rapid changes can be caused by motion of one of the computing devices participating in the wireless data communication or an object external from the computing devices but in the signaling path. The rapid changes creates noise and jitter in receiver timing in at least one of the computing devices.

Page 6, lines 16-22 (emphasis added).

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Kong is silent with respect to “detecting...a movement of an external object in a signal path...,” as recited in Applicant’s claim 1. Accordingly, Kong does not disclose the feature of “detecting a movement of a communication device communicating the wireless signal or a movement of an external object in a signal path...,” as recited in Applicant’s claim 1.

At least because Kong does not disclose “detecting a movement of a communication device communicating the wireless signal or a movement of an external object in a signal path” based bit error rate (BER), Bucher’s teaching regarding estimating BER is irrelevant. However, Applicant maintains that Bucher does not teach “a measurement of a metric of a modulated signal attribute comprised of at least one of amplitude of the wireless signal, frequency of the wireless signal, or phase of the wireless signal” (emphasis added) at least because the error magnitudes used in Bucher are errors between I and Q components of a burst, and not from a “wireless signal.” *See, e.g.*, Bucher col. 3, lines 45-51 (stating “signal 12 represents a burst, rather than a continuous signal, and is referred to as burst 12 below. . . . Data may be conveyed through relative phase relationships between I and Q quadrature components of signal or burst 12 using any of many well known data modulation techniques”).

Accordingly, claim 1 is not obvious over Kong, Bucher, or any combination thereof. Claims 21 and 42 include features similar to claim 1 and, therefore, are

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also not obvious over Kong, Bucher, or any combination thereof, for at least the same reasons as claim 1.

Claims 2, 11-14, 16, 17, 19, 22, 31-36 and 39 are also not obvious over Kong, Bucher, and their combination, at least for the same reasons as claims 1 and 21 from which they depend.

Claims 5-7 and 25-27 stand rejected under 35 U.S.C. § 103(a) as obvious over Kong, Bucher and Watanabe (U.S. Pub. No. 2001/0041584). Claims 8-10 and 28-30 stand rejected under 35 U.S.C. § 103(a) as obvious over Kong, Bucher and Ryu (U.S. Patent No. 6,430,244).

Claims 5-10 and 25-30 depend from patentable claims 1 and 22, and Watanabe and Ryu fail to make up for the deficiencies of Kong and Bucher, as set forth above. Accordingly, claims 5-10 and 25-30 are not obvious over Kong, Bucher, Watanabe, Ryu, or any combination thereof.

### **Conclusion**

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

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In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

James A. Proctor, Jr.

By: /Dawn C. Kerner/  
Dawn C. Kerner  
Registration No. 67743

Volpe and Koenig, P.C.  
United Plaza  
30 South 17th Street  
Philadelphia, PA 19103-4009  
Telephone: (215) 568-6400  
Facsimile: (215) 568-6499

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